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August 23, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Revision of the Commission's Program Access Rules; News Corp. and The DIRECTV Group, Inc., Transferors, and Liberty Media Corp., Transferee, for Authority to Transfer Control; Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corp. (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees, et al., MB Docket Nos. 12-68, 07-18, & 05-192

Dear Ms. Dortch:

On August 20, 2012, Michael Schooler (Vice President and Deputy General Counsel), Stephanie Podey (Associate General Counsel), and I met with met with Michelle Carey, Nancy Murphy, Mary Beth Murphy, Kathy Berthot, and David Konczal, of the Media Bureau, and Jonathan Levy and Anne Levine of the Office of Strategic Planning and Policy Analysis, to discuss the above-captioned proceeding.¹

During the meeting, NCTA reiterated its position that the Commission should allow the prohibition on exclusive contracts between cable-owned satellite programming networks and cable operators to sunset.² NCTA described the robust and irreversible competition present in the video marketplace and emphasized that vertical integration no longer threatens that competition.³ (See attached handout.) NCTA explained that the United States Court of Appeals for the D.C. Circuit made clear that Congress did not intend the exclusivity prohibition in Section 628(c) to last forever or for as long as there was some hypothetical risk of anticompetitive conduct.⁴ Because the exclusivity prohibition is no longer "necessary to preserve and protect competition and diversity" in the video marketplace, the Commission should allow it to expire.

¹ This letter was inadvertently not filed yesterday on its due date; it is being filed this morning as soon as the oversight was identified.

² See generally NCTA Comments (filed June 22, 2012); NCTA Reply Comments (filed July 23, 2012).

³ See NCTA Comments at 3-14; NCTA Reply Comments at 3-7.

⁴ See NCTA Comments at 7.

NCTA also explained that the exclusivity prohibition should be allowed to sunset *in its entirety*. As reflected in NCTA's comments, and as the Court of Appeals made clear, Congress intended that once sufficiently sturdy competition took hold in the marketplace, the prohibition was to "cease to be effective."⁵ Finally, and as explained in its comments, NCTA reiterated that First Amendment concerns weigh heavily against any further extension of the exclusivity prohibition.⁶

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

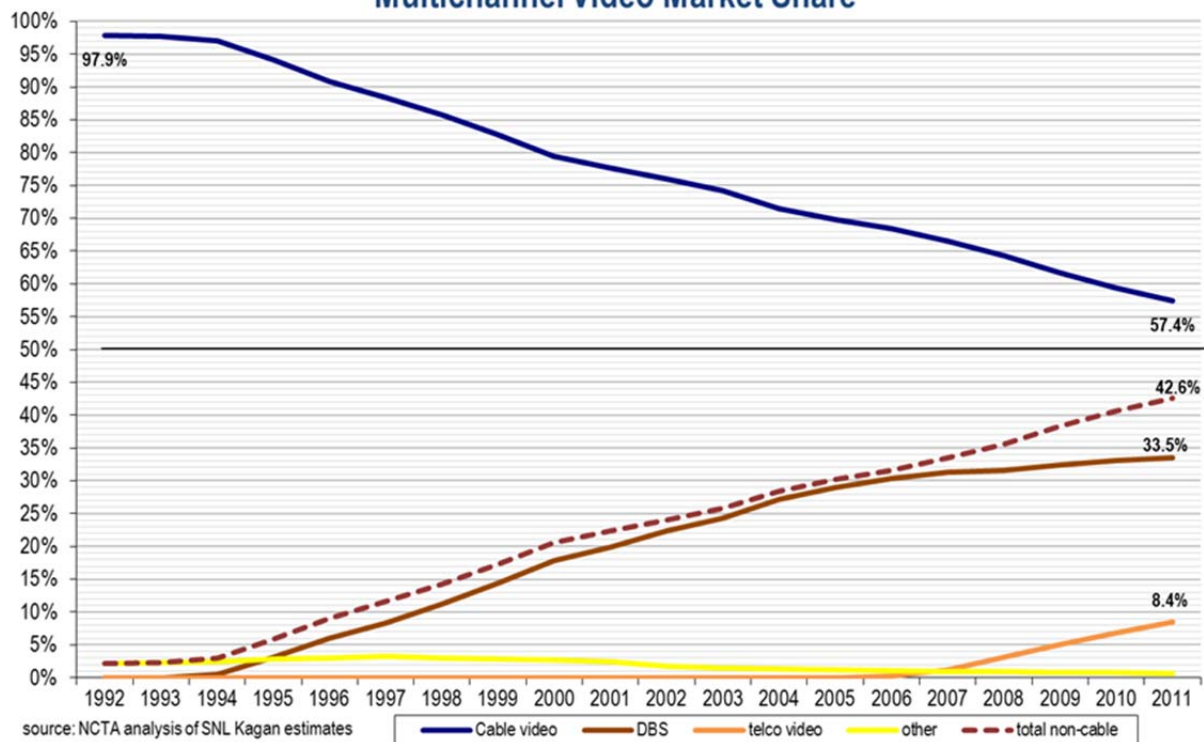
Attachment

cc: Kathy Berthot
Michelle Carey
David Konczal
Mary Beth Murphy
Nancy Murphy
Jonathan Levy
Anne Levine

⁵ See *id.* at 14-17.

⁶ See *id.* at 17-18.

Multichannel Video Market Share



National Basic Cable Programming Networks

